



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 10/15/02
AGENDA ITEM 4
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Community and Economic Development
SUBJECT: Consideration of Tree Preservation Ordinance

RECOMMENDATION:

It is recommended that the City Council approve the attached resolution, adopting the Negative Declaration and introducing the attached ordinance.

DISCUSSION:

During a work session on July 23, 2002, the City Council discussed a proposed new Tree Preservation Ordinance. At that time Council members were advised of the Planning Commission's recommendation (5:1:1 absent) to support the new ordinance. Issues and concerns raised by the public and the Planning Commission were discussed, and staff was directed to further revise the Ordinance, taking into consideration the issues raised at the work session.

An expressed objective of the new ordinance was to establish a tree removal/pruning permitting system that is not onerous to applicants and staff, but which meets the intent of insuring that good tree pruning practices are carried out and that trees are not removed without careful consideration. Since the work session, the proposed ordinance was changed to reflect that certified arborists could apply for a one-year permit for tree pruning within the City. This permit would be issued contingent on the arborists agreeing to practice tree pruning in accordance with International Arboriculture standards and City policies. Also, landscape contractors working under the supervision of a permitted arborist would not require a separate permit. However, landscape contractors or other workers without a certified arborist supervising their tree pruning work would be required to obtain a permit for pruning and tree removal activities on a per-parcel basis. As part of the permitting process they would be required to provide the City with their proposed method of work, and City staff would inspect the trees both before and after the work.

Discussion also centered around the requirement in the proposed ordinance for permits for removing tree limbs one inch or greater in diameter. Although subsequent to the work session staff consulted with other arborists regarding the size threshold, staff remains convinced that the ordinance should require a permit for the removal of live tree limbs larger than one inch. As indicated above, arborists with one-year permits would not have to apply for a separate permit for larger limb removal; however, this requirement would apply to landscapers or other persons trimming trees who are not certified arborists or do not work under the direct supervision of a certified arborist.


Another issue was raised regarding a proposed assumption that a tree felled without a permit was in perfect health. Staff has revised the proposed ordinance (Section 10-15.26) to reflect that an illegally removed tree would be assumed to be in perfect health unless the property owner can prove otherwise by photo or other verifiable evidence.

Currently, if trees required by virtue of a discretionary act die due to lack of maintenance, disease, or drought, a replacement tree is required to be installed. The proposed Ordinance does not impose any additional requirements.

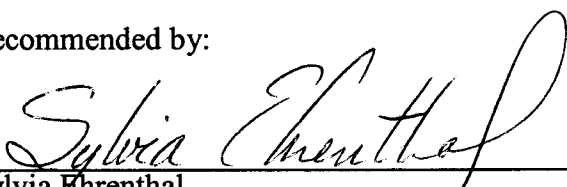
The Ordinance would take effect 30 days after adoption by City Council. Staff will use that time to make sure that the information and requirements in the new ordinance are distributed to the public. Staff also intends to continue to educate and inform businesses and private citizens of proper pruning practices.

Notice of this item was advertised in the Daily Review, sent to all recognized homeowner and neighborhood associations, former members of neighborhood task forces, the Chamber of Commerce, the local Board of Realtors, local developers, local landscape architects, arborists, landscape contractors, landscape maintenance companies, and the Hayward Area Recreation and Park District.

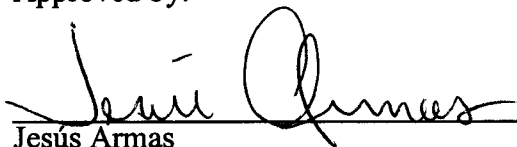
Prepared by:


Lorna Carranza, RLA
Landscape Architect

Recommended by:


Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:


Jesús Armas
City Manager

Exhibits:

- A. Tree Preservation Ordinance
- B. City Council Work Session Report of July 23, 2002
- C. Planning Commission Meeting Minutes of July 11, 2002

10/10/02

DRAFT

EXHIBIT A

ORDINANCE NO.

ORDINANCE REPEALING ARTICLE 15 OF CHAPTER 10 OF
THE HAYWARD MUNICIPAL CODE AND ENACTING A NEW
ORDINANCE FOR TREE PRESERVATION

mac
10/10/02

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Article 15 of Chapter 10 of the Hayward Municipal Code is hereby repealed and, in substitution thereof, a new Article 15 of Chapter 10 of the Hayward Municipal Code is hereby enacted to read as follows:

**“ARTICLE 15
TREE PRESERVATION**

Section	Subject Matter
10-15.10	PURPOSE AND INTENT
10-15.11	APPLICATION OF THE ORDINANCE
10-15.12	DEFINITIONS
10-15.13	PROTECTED TREES
10-15.14	PRESERVATION OF PROTECTED TREES
10-15.15	NON-LIABILITY OF CITY
10-15.20	PERMITS REQUIRED
10-15.21	APPLICATION FOR PERMIT
10-15.22	CRITERIA FOR EVALUATION OF APPLICATIONS
10-15.23	CONDITIONS OF APPROVAL
10-15.24	EXCEPTIONS
10-15.25	PERMIT APPEALS
10-15.26	PENALTIES; APPEALS
10-15.27	COLLECTION OF PENALTIES
10-15.28	MISDEMEANOR; INJUNCTION RELIEF
10-15.29	IMPOSITION OF LIEN
10-15.30	DURATION OF PERMIT
10-15.31	REVOCATION OF PERMIT

ARTICLE 15

TREE PRESERVATION

SEC. 10-15.10 PURPOSE AND INTENT. The City of Hayward contains many species of native and non-native trees of significant size and quality that contribute in a positive way to its environment. Trees that are properly maintained increase property values, maintain the natural ecology, temper the effects of extreme temperatures, reduce runoff, prevent erosion of topsoil, and help create and maintain the identity and visual character of the City. Trees can help to provide protection from flooding and risks of landslides. They also increase oxygen output, which helps to combat air pollution. This Ordinance is intended to protect and preserve significant trees and control the re-shaping, removal or relocation of those trees that provide benefits for the neighborhood or the entire community while recognizing that there are rights to develop private property.

The City Council hereby finds that the wanton and wholesale destruction of trees could impair the scenic beauty of the area, cause erosion of top soil, create flood hazard and risk of landslides, reduce property values, and increase the cost of construction and maintenance of drainage systems through the increased flow and diversion of surface waters.

For these reasons the City Council finds it in the public interest, convenience and necessity to enact regulations as may be reasonably consistent with the economic enjoyment of private property which will control the cutting or trimming, relocation, or removal of trees within the City in order to ensure that such tree work is in conformance with the International Society of Arboriculture (ISA) standards.

SEC. 10-15.11 APPLICATION OF ORDINANCE. The Tree Preservation Ordinance is applicable to all types of existing Industrial, Commercial, and Multi-family development, and to new development, under-developed properties, or undeveloped properties. On developed single family properties, only those trees that were required to be planted as part of the Zoning Ordinance or were required to be planted or protected in place as a condition of approval for development are Protected Trees that require a permit for trimming or cutting, relocation or removal. Trees required to be planted on a single family lot as part of the Zoning Ordinance include Street Trees or trees required to be planted in the front yard as 'street trees'. Side yard trees on a corner lot outside of the fence are also Protected Trees under this Ordinance. Trees within the rear yard area of single-family properties are exempt unless they were required to be planted or protected in place as part of the conditions of approval or discretionary action. Examples of non-exempt trees in rear yards may include trees planted adjacent to BART or railroad right-of-way or a Specimen Tree that was in place prior to the homes being developed. Trees planted by a single-family homeowner for purposes other than as a Condition of Approval are exempt from all portions of this Ordinance.

SEC. 10-15.12 DEFINITIONS. For the purposes herein, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from their context a different meaning is intended.

Certified Arborist. A "Certified Arborist" shall be as defined by the International Society of Arboriculture. It shall include a "Consulting Arborist" who satisfied the requirements of the American Society of Consulting Arborists (ASCA) and who is determined by ASCA to meet the standards of Certified or Consulting Arborist as defined above.

Cutting. "Cutting" shall mean the detaching or separating from a protected tree any live limb or branch over one inch in diameter, any pruning which changes the shape or natural character of the tree or any branch removal that removes more of the tree canopy than recommended under ISA Standards.

Damage. "Damage" shall mean any action that causes permanent injury, death or disfigurement to a tree. This may include, but is not limited to, cutting, poisoning, over watering, withholding water, unauthorized relocating or transplanting of a protected tree, trenching, excavating, or paving within the protected zone of a tree.

Disfigurement. "Disfigurement" or "disfigure" shall mean the unsightly and injurious trimming of a protected tree. This shall include tree-trimming practices that are not in conformance with the International Society of Arboriculture standards. It shall include pruning practices such as stubbing, heading, heading back, stubbing off, pollarding, tipping, hat racking, topping off, de-horning, lopping, or rounding over any Protected trees. These practices are not permitted with or without a permit from the City of Hayward. Existing pollarded trees shall be examined on a case-by-case basis as permits for trimming Protected trees are requested.

Deadwood. "Deadwood" shall mean the limbs, branches, or portion of a tree that contains no green leaves or live wood during a period of the year when green leaves should be present.

Dripline. The "Dripline" shall mean all of the area of ground underneath the tree to the outermost edge of any portion of the tree's canopy. When depicted in plan view, the dripline will appear as an irregularly shaped circle that follows the outline of the tree's canopy as seen from above.

Encroachment. "Encroachment" shall mean any intrusion of human activity into the protected zone of a Specimen or Protected tree. This includes, but is not limited to, pruning, grading, excavating, trenching, installation of fencing, parking vehicles, driving, storing materials or equipment, or construction of structures or other improvements.

Memorial Tree. "Memorial Tree" shall mean any tree planted in memory of or in commemoration of an individual or individuals or a specific event by an entity recognized by the City of Hayward. This in general will not include Christmas trees planted by a family or other similar type plantings.

Person. "Person" shall mean any natural person, partnership, firm, corporation, governmental agency, or other legal entity.

Pollard. To drastically trim a tree removing the majority of the branching structure so that all that remains are stubs of the main branches, which then are forced to put out new branches. The new branches are weakly attached to the main structure of the tree. Because of the cuts, the tree is usually susceptible to any air borne diseases and invasive insects.

Protected Tree. "Protected Tree" shall mean a tree of a specific species or size that may not be reshaped, altered, damaged, relocated or removed without first obtaining a Tree Removal and Cutting Permit from the City of Hayward. Protected trees shall not include trees planted and growing in a licensed nursery for sale or planted and grown as a part of an active commercial orchard.

Protected Zone. The "Protected Zone" shall mean the area located under the undisturbed canopy of the tree as described in "Dripline" and extending for an additional one (1) foot from the center point of the tree to beyond the farthest point of the dripline of the tree.

Pruning. "Pruning" shall mean the removal of water sprouts, crossed limbs, or other unhealthy branching structure as designated by the ISA. Such removal shall not change the natural form of the tree, shall not consist of stubbing or heading back branches, and shall in no case consist of removing more of the total tree canopy than recommended under ISA standards.

Relocation. "Relocation" shall mean the transplanting of a tree from its original location to another suitable location.

Removal. "Removal" shall mean the physical removal of a tree or causing the death or untimely decline of a tree through actions including but not limited to damage, destruction, unnecessary disfigurement, withholding water, poisoning, or other deliberate or willful action or inaction.

Routine Maintenance. "Routine Maintenance" shall mean actions needed for the continued health of a tree including but not limited to, the removal of deadwood or storm damaged branches, light pruning to remove sucker growth or improve scaffolding when such pruning does not alter the natural form of the tree, removal of branches less than 1 inch in diameter.

Specimen Tree. A "Specimen Tree" shall mean a tree that is representative of a particular species in form and size. It is a tree that may also represent the character of an area or neighborhood such as a live or valley oak in the foothill areas, redwoods along the northern California coast or a specific tree that is common in a particular neighborhood.

Street Tree. A "Street Tree" is a tree that is planted in the right-of-way of a street and is also maintained by the City. It is usually located in the planter strip between the curb and the sidewalk or in a median island.

Tree. A "Tree" shall mean any woody perennial plant characterized by having a single trunk or multi-trunk structure at least ten feet high and having a major trunk with a caliper of at least four inches measured 54 inches above the ground level. It shall also include those species of plants generally designated as trees and any required tree shown on City approved landscape plans.

Trimming. See 'Cutting'.

SEC. 10-15.13 PROTECTED TREES. The following trees are hereby classified as Protected Trees within the City limits of the City of Hayward:

1. Trees having a minimum trunk diameter of eight inches measured 54" above the ground. When measuring a multi-trunk tree, the diameters of the largest three trunks shall be added together.
2. Street trees or other required trees such as those required as a condition of approval, Use Permit, or other Zoning requirement, regardless of size.
3. All memorial trees dedicated by an entity recognized by the City, and all specimen trees that define a neighborhood or community.
4. Trees of the following species that have reached a minimum of four inches diameter trunk size:
 - a. Big Leaf Maple *Acer macrophyllum*
 - b. California Buckeye *Aesculus californica*
 - c. Madrone *Arbutus menziesii*
 - d. Western Dogwood *Cornus nuttallii*
 - e. California Sycamore *Platanus racemosa*
 - f. Coast Live Oak *Quercus agrifolia*
 - g. Canyon Live Oak *Quercus chrysolepis*
 - h. Blue Oak *Quercus douglassii*
 - i. Oregon White Oak *Quercus garryana*
 - j. California Black Oak *Quercus kelloggi*
 - k. Valley Oak *Quercus lobata*
 - l. Interior Live Oak *Quercus wislizenii*
 - m. California Bay *Umbellularia californica*

5. A tree or trees of any size planted as a replacement for a Protected Tree.
6. Trees located on a developed single-family residential lot that cannot be further subdivided are exempt unless they have been required or protected as a condition of approval.

SEC. 10-15.14 PRESERVATION OF PROTECTED TREES. Any person who owns, controls, or has custody of any real property within the City shall maintain all Protected Trees located thereon in a state of good health. This includes parcels designated as permanent open space or for recreational purposes. Failure to maintain said trees in a state of good health will constitute a violation of this section.

SEC. 10-15.15 NON-LIABILITY OF CITY. Nothing in this Chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any public property or the owner of any private property shall have a duty to keep Protected Trees upon the property and under their control in a safe and healthy condition.

SEC. 10-15.20 PERMITS REQUIRED. No person shall remove, destroy, perform cutting of branches over one inch in diameter, or disfigure or cause to be removed or destroyed or disfigured any Protected Tree without having first obtained a permit to do so. Street Trees are protected under the Street Tree Ordinance. All Protected Trees shall require a permit for removal, relocation, cutting or reshaping. All removed or disfigured trees shall also require replacement with like-size, like-kind trees or an equal value tree or trees as determined by the City's Landscape Architect. If a replacement tree is unavailable in like size or kind, the value of the original Protected Tree shall be determined using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture. The valuation shall be used to determine the number and size of replacement trees required.

The replacement trees shall be located on site wherever possible. Where there is not sufficient room on site for the replacement trees in the judgment of the City Landscape Architect or his or her designated representative, another site may be designated that is mutually agreeable. These replacement trees shall not be counted as part of the required trees to meet zoning standards for the original site.

Routine maintenance of Protected Trees shall not require a permit. However, no Protected Tree shall be severely pruned, topped, pollarded or otherwise pruned in a way that disfigures the natural form of the tree. This maintenance shall include only tree pruning practices that are approved by the International Society of Arboriculture or practices authorized in the City of Hayward Tree Maintenance Handout. Except in emergency situations where a branch is causing immediate danger to the public in the opinion of a Certified Arborist, major pruning or trimming of a Protected Tree, cutting of live branches over one inch in diameter, pollarding, removing of large branches obscuring a sign, or other large scale limb removal will require a permit prior to any work being performed.

A one-year pruning permit that is not site-specific may be issued under the following circumstances: (1) the applicant has a Certified Arborist on staff who is listed on the City's list of Certified Arborists; (2) the applicant has agreed in writing to perform work in accordance with City-approved International Society of Arboriculture standards; and (3) the applicant has submitting a written protocol describing the proposed activity. Utilities or their sub-contractor, whose work is performed or supervised by a Certified Arborist included on the most recently approved list of Certified Arborists maintained by the City, may receive a yearly permit for all Protected Trees to be trimmed but shall demonstrate to the City's satisfaction the use of International Society of Arboriculture best practices for all work. All other permits shall be site-specific. Tenants of any property shall have the express written consent of the owner prior to removing or cutting any Protected Trees on that property and prior to obtaining any required permits.

SEC. 10-15.21 APPLICATION FOR PERMIT. An application for a Protected Tree Removal or Cutting permit shall be filed for all Protected Trees along with the inspection fee as established in the City's Master Fee Schedule. The application shall be filed and approved prior to any tree removals, relocations, or cutting. Where Protected Tree removal, relocation, or encroachment into the Protected Zone of a tree is requested as part of the development of a lot or parcel, the application must be processed prior to the issuance of any grading, trenching, encroachment, demolition, or building permit for development. On receipt of a completed application, the City Landscape Architect or his or her designated representative shall inspect the premises and determine which Protected Trees may be removed or what reshaping or cutting may occur.

SEC. 10-15.22 CRITERIA FOR EVALUATING APPLICATIONS. The following criteria will be used when evaluating Protected Tree Removal or cutting requests:

- a. The condition of the existing Protected Tree with respect to disease, danger of falling, or deadwood.
- b. Danger to the public or to other Protected Trees in its present condition or location.
- c. Interference with existing utilities or with a neighboring property's view; provided that the view interference was not pre-existing or the tree is estimated not to have existed prior to the neighboring house being built.
- d. Whether the Protected Tree is a Specimen Tree, Street Tree or Memorial Tree.
- e. Whether the Protected Tree is lifting the sidewalks and the sidewalk cannot be re-poured with a root barrier or relocated to preserve the tree.
- f. Whether removal, relocation, re-shaping, or encroaching into the Protected Zone of the tree is necessary in order to allow reasonable use of the property.
- g. Whether the Protected Tree is anchoring a slope or the removal or disturbance of the Protected Zone of the tree would cause erosion, loss of soil, increase the flow of surface runoff, or cause a diversion of water that would affect downstream properties.
- h. The total number of overall or Protected Trees on the property in comparison to surrounding properties and the effect the tree removal would have on surrounding property values.
- i. Whether an effort has been made to preserve the character of the area and the more valuable specimens have been preserved or relocated on site.
- j. Whether the property will support the number of existing trees, taking into consideration any proposed development and zoning for the property, in a healthy growing condition and whether a different layout might allow for the preservation of the tree(s) in place.
- k. Whether the Protected Tree is encroaching on or damaging the existing primary residence or development and if it is, whether it could be trimmed or reshaped in a natural looking form or the roots pruned and redirected with root barriers to protect the existing development.

SEC. 10-15.23 CONDITIONS OF APPROVAL. No person shall cut, move, or remove any Protected Tree in violation of the terms or conditions of any permit granted hereunder. Tree Removal or Cutting Permits shall include such conditions of approval as are appropriate to effect the purpose of this Ordinance. Such conditions may include, but are not limited to, the following:

- a. Replacement of Protected Trees removed or destroyed with a tree or trees equal in size and species or value as provided in Section 10-15.20.
- b. The retention of Certified Arborist to supervise all pruning both of branches and roots, re-shaping, trimming or relocation of Protected Trees.

- c. The branch and root structure of all Protected Trees to remain in place or Protected Trees that have been relocated on site shall be protected by the use of a substantial construction fence, such as a non movable chain link fence, placed around the Protected Zone of each Protected Tree. Such protection shall be in place prior to any construction equipment or materials being on site. Fencing shall remain in place until construction equipment, materials, and debris have been removed from the site and approval from the City Landscape Architect has been given for removal. No mechanical equipment, material, debris, paint or paint products, pallets, chemicals, contaminated water or other foreign material shall be allowed to be placed, poured, piled, pushed, or stored within the Protected Zone of any tree.
- d. Each Protected tree or any tree designated to remain in place on the construction site shall receive Routine Maintenance during the entire construction process.

SEC. 10-15.24 EXCEPTIONS. If personal injury or property damage is determined by the City Landscape Architect, the City Landscape Manager or their designated representatives to be imminent due to the hazardous or dangerous condition of a Protected Tree, or if the Protected Tree is an immediate impediment to the work of any public safety officers, a Protected Tree may be cut or removed without a permit. A Protected Tree that is removed under these conditions shall be replaced by a 24" box tree since the removal of a Protected Tree under Emergency Circumstances does not negate the Conditions of Approval or zoning requirements for a site.

SEC. 10-15.25 PERMIT APPEALS. Any affected party may appeal a permit decision made by the Landscape Architect, or his or her designated representative, to the Planning Director, in writing within 10 days of the permit decision. Any affected party may appeal the decision of the Planning Director to the Planning Commission in accordance with the appeals process detailed in Section 10-1.2845 of the Hayward Municipal Code. The Planning Commission may approve, conditionally approve or disapprove the application based on the criteria listed in Section 10-15.22.

The decision of the Planning Commission may be appealed to the City Council in accordance with the appeals process detailed in Section 10-1.2845. The City Council may approve, conditionally approve, or disapprove the application based on the criteria listed in Section 10-15.22. In the event significant new evidence, which may include substantial changes in the application, is presented in conjunction with the appeal, the matter shall be returned to the Planning Commission for further consideration and action. In the absence of significant new evidence, the action of the City Council shall be final and conclusive.

SEC. 10-15.26 PENALTIES. Should a Protected Tree be substantially re-shaped, topped, removed, damaged or destroyed without a permit, a fine equal to the value of the Protected Tree shall be charged in addition to the replacement of the Protected Tree with a like-kind, like-size tree. The value of the original Protected Tree shall be determined using the latest Edition of "Guide for Plant Appraisal" by the International Society of Arboriculture. If the size of the Protected Tree cannot be determined due to the unauthorized removal of a Protected Tree, the size shall be determined by measuring the stump that remains or may be determined by anecdotal evidence or interpolated from photographs or adjacent trees. A missing Protected Tree shall be assumed to have been in perfect health, unless the property owner can prove otherwise by photo or other verifiable evidence.

The Landscape Architect shall notify the property owner and alleged violator (if different than the property owner) of the violation and fine in writing. The notice shall include a description of the alleged violation and provide the owner ten business days to request an administrative hearing before the City's Planning Director. The notice shall also indicate that the decision of the Landscape Architect is final unless appealed to the Planning Director. The Planning Director shall consider all relevant evidence. All decisions of the Planning Director are final subject to provisions of Section 10-15.29.

SEC. 10-15.27 COLLECTION OF PENALTIES. Fines for violation of this Chapter are payable at the City's Finance office. Fines must be paid within thirty business days. The City's Finance Department is authorized to collect all unpaid civil fines.

SEC. 10-15.28 MISDEMEANOR; INJUNCTIVE RELIEF. Violation of any provisions of this Chapter shall be chargeable as a misdemeanor as provided in Article 3 of the Hayward Municipal Code. In addition to the foregoing criminal penalty, violation of any provisions of this Chapter shall be the basis for injunctive relief.

SEC. 10-15.29 IMPOSITION OF LIEN. Any unpaid costs or penalties imposed pursuant to this Chapter shall constitute a special assessment against the real property upon which a violation of this Chapter has occurred. All costs and/or fines shall be itemized in a written report of assessment. The Planning Director shall cause a copy of the report and assessment to be served on the owner of the property not less than five days prior to the time fixed for confirmation of the assessment. Service may be made by enclosing a copy of the report of assessment in a sealed envelope, postage prepaid, addressed to the owner at his or her last known address as the same appears on the last equalized assessment rolls of the County of Alameda and depositing the same in the United States mail. Service shall be deemed complete at the time of mailing.

A copy of the report of assessment shall be posted in the Office of the City Clerk on the bulletin board designated for the posting of agendas, not less than three days prior to the time when the report shall be submitted to the City Council. The City Council shall hear the report, together with any objections by the property owner. After the assessment is made and confirmed by the City Council, it shall be a lien on said property.

SEC. 10-15.30 DURATION OF PERMIT. Any permit issued shall be valid for a period of one year from issuance, or, if an appeal is taken, one year from the final decision.

SEC. 10-15.30 REVOCATION OF PERMIT. A permit shall be subject to revocation if the conditions of the permit or the regulations set forth herein or incorporated herein are violated. Before taking any action to revoke the permit, the Landscape Architect shall give notice to the permittee in writing of the proposed revocation, the reasons therefore, and the time and place the permittee will be given an opportunity to show cause to the Landscape Architect why the permit should not be revoked. The written notice may be personally served upon the permittee or mailed to the permittee at the address shown on the application at least ten days prior to the hearing. Upon conclusion of the hearing, the Landscape Architect may revoke the permit upon a finding of noncompliance with the conditions of the permit or the regulations herein.

The Landscape Architect's decision to revoke the permit may be appealed as set forth in Section 10-15.25 above."

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2002, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2002, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Mayor of the City of Hayward

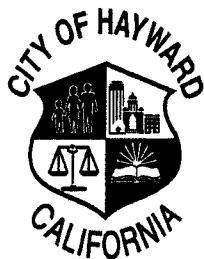
DATE:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/23/02

AGENDA ITEM _____

WORK SESSION ITEM WS2

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Revised Tree Preservation Ordinance

RECOMMENDATION:

It is recommended that the City Council review and comment on this report.

DISCUSSION:

At a City Council work session in February of 2000, staff was directed to revise the 'Preservation of Trees' Ordinance and to add fines for damaging or destroying trees. The project was delayed due to staff turnover in the intervening period. This revised Ordinance proposes a method of determining tree value consistent with other Bay Area cities, with penalties for unauthorized removal based on those values. These fines will underscore the value that trees contribute to our neighborhoods and the City's image.

There have been numerous occasions when trees that were required to be installed by the Zoning Ordinance or trees that were required to be preserved in place as a Condition of Approval for a commercial, industrial, or residential development were removed, decapitated, or pruned in such a way that the tree was effectively destroyed. On other occasions, trees were indiscriminately removed from land where future development was anticipated. When trees are removed, damaged, and destroyed, it has a profound effect on the visual perception of our City, not just on the individual property. This type of blight is what the original "Preservation of Trees" Ordinance was established to prevent. However, it has become increasingly clear that the present Ordinance needed further clarification and more education is needed about what is good and bad pruning.

In meetings on April 11, June 20, and July 11, of this year the Planning Commission received public testimony and commented on the merits of the proposed Tree Preservation Ordinance. At the public hearing of July 11, 2002, the Planning Commission recommended adoption of the proposed revised Tree Preservation Ordinance, which incorporates the following major changes to the current ordinance.

The proposed ordinance defines the trees that would be 'Protected.' It should be noted that street trees are dealt with separately under other provisions of the Municipal Code. This Ordinance covers trees that are on commercial, industrial, and multi-family properties. 'Protected' trees are trees with 8 inches or greater trunk diameter at 54 inches above existing grade and certain specific slow-growing California native trees at 4-inch trunk diameter at 54 inches above existing grade. A tree with an 8-inch diameter trunk is generally at least 10 to 15 years old and may in some cases be as much as 100 years old depending on the species of the tree. All trees required by regulatory

action of the City (zoning or condition of approval) are classified as 'Protected' regardless of their size.

In addition, some trees on single-family parcels are also 'Protected'. These include trees on undeveloped single-family parcels or parcels that can be further subdivided, or trees that were required by regulatory action.

At the recommendation of the Planning Commission, 'Routine Maintenance' including maintenance pruning of 'Protected' trees to International Society of Arboriculture (ISA) standards, would not require a permit. The City would provide handouts, tree trimming classes, and community education programs in multiple languages showing what type of work would require a permit and what type of work would be 'Routine Maintenance' before implementing the Ordinance so that the public would be well informed prior to the Ordinance taking effect.

However, for all 'Protected' trees, the removal of a large portion of the tree canopy, large live limb removal, and relocation or removal of 'Protected' trees, will require a permit. Removal of a Protected Tree will also require the replacement of the Protected Tree with one of similar size or value wherever possible or upsizing other trees being planted on the site based on the value of the tree being removed. Conditions of Approval would be attached to the permits.

The current Ordinance governs trees on single-family residential lots only when these lots are vacant or when the properties can be further subdivided to create additional home sites. The intent of the current Ordinance is to discourage the property owners from felling significant mature trees for the purpose of maximizing the developable portions of their property (e.g., recent University Court issue). The new Ordinance would provide an economic deterrent to removing these trees. The proposed new Ordinance would also regulate the removal or cutting of the trees on single-family parcels that were required as part of a tract or other conditions of approval of discretionary acts. For example, if the approval of a tract requires that certain trees be planted along the street frontage or significant existing trees be saved, subsequent property owners would be obliged to maintain those trees and they would not be able to remove them without an approved Tree Removal and Cutting permit. If they were removed, they would be required to plant a replacement tree. If they did not obtain a permit or replace the removed tree, fines could be imposed.

Members of the public and the Planning Commission were divided on the issue of whether very large specimen trees that are not currently protected on single-family lots should be protected under the revised ordinance. The Planning Commission took no action on this issue.

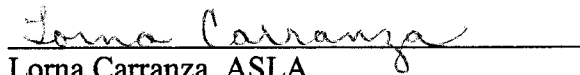
At the July 11th meeting of the Planning Commission, a representative from HARD (Hayward Area Recreation District) spoke in support of the Ordinance. A representative of the Chamber of Commerce expressed concern that the provisions of the Ordinance may be too burdensome for small landscape companies. He suggested the incorporation of an annual permit for a tree care company to reduce the administrative burden on both the applicant and the City. He also suggested that no permits be required for normal tree maintenance. The Ordinance primarily covers commercial, industrial and multifamily properties. These tend to be larger parcels with contracts for professional tree maintenance. Staff believes that individual permits on these larger parcels will allow an appropriate level of oversight and accountability. In the absence of individual parcel or site permits, staff would have difficulty in tracking down firms that were not doing work in conformance with the requirements of the Ordinance. The Ordinance already allows routine maintenance without a requirement for a permit. Normal pruning of trees is

allowed, but cutting of branches that would alter the natural form of the canopy would require a permit.


The City will keep a list of Certified Arborists who agree to trim trees to ISA standards. This list will be available to help the public select qualified tree care personnel. These certified arborists would be able to get expedited permits through the tree permit program.

The proposed Ordinance requires that when Protected trees are removed without permits, a replacement tree must be planted and a penalty equal to the value of the tree be imposed. The Planning Commission found the proposed penalty to be reasonable, and courts of law have upheld similar penalties. No cap on the amount of the penalty was proposed, as a cap would make the most valuable trees less valuable and more likely to be subject to callous removal. The penalty for violations of the ordinance may be appealed to the Planning Director. As with other penalty procedures in the Municipal Code, penalties assessed at the administrative level that remain unpaid become the subject of an annual lien hearing before the City Council, at which time any party believing the penalty to be inappropriately levied may appeal to the City Council.

Prepared by:


Lorna Carranza, ASLA
Landscape Architect

Recommended by:


Sylvia Ehrental
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

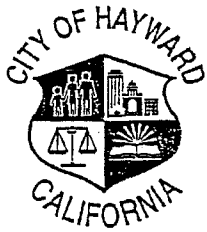
Exhibits:

- A. Findings of Approval of New Ordinance
- B. Draft Ordinance
- C. Planning Commission Report, dated July 11, 2002

7/18/02

FINDINGS FOR APPROVAL
OF NEW TREE PRESERVATION ORDINANCE
SECTIONS 10-15.10 through 10-15.30
MINIMUM DESIGN AND PERFORMANCE STANDARDS
TEXT CHANGE NO. 2002-0042

- A. In accordance with California Environmental Quality Act (CEQA) Guidelines, it was determined that this ordinance would not have a negative impact on the environment and a negative declaration has been prepared. The Preservation of City trees will improve the environmental quality of the City of Hayward.
- B. Substantial proof exists that the proposed text change relative to the protection of certain specified trees in the City of Hayward will promote the public health, safety, convenience, and general welfare of the residents, business operators and industries in Hayward by maintaining the natural ecology of the area, providing protection from flooding and risk of landslides, reducing heat gain and tempering the effect of extreme temperatures, and increasing oxygen output and reducing carbon dioxide helping to combat air pollution.
- C. The proposed new ordinance is in conformance with the purposes of all applicable, officially adopted policies and plans in that the General Policies Plan calls for mature trees to be protected in place wherever possible and calls for trees to be planted in parking lots and along streets for shade, and trees to be planted between conflicting uses to help buffer those uses from each other.
- D. Preserving and protecting certain specified trees as outlined in the new ordinance will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations in that trees will be protected from removal and disfigurement by incorrect pruning practices. In addition, trees that are damaged or removed will be required to be replaced with like kind, like size trees or equal.



CITY OF HAYWARD AGENDA REPORT

Meeting Date 07/11/02
Agenda Item 1

TO: PLANNING COMMISSION

FROM: Lorna Carranza, ASLA, Landscape Architect

SUBJECT: Text Change Application PL – 2002-0042 - Initiated by the Planning Director – Repeal Chapter 10, Article 15, of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30 and Introduce Ordinance, "Tree Preservation" Sections 10-15.10 through 10-15.30.

RECOMMENDATION:

It is recommended that the Planning Commission recommend that the City Council adopt the Negative Declaration, approve the repeal of the existing 'Preservation of Trees' Ordinance, and adopt the proposed 'Tree Preservation' Ordinance subject to the attached findings.

DISCUSSION:

At the Planning Commission meeting on April 11, 2002, revisions to the Tree Preservation Ordinance were introduced. (See attached staff report.) The comments presented during the public hearing raised issues that needed further clarification and definition. The Planning Commission continued this item to allow staff to meet with the interested members of the public to further explore and refine various aspects of a revised Ordinance. Staff evaluated the comments received at the Planning Commission meeting, in letters and phone calls, and from the meeting held with the Chamber of Commerce. Because proposed changes to the original Ordinance are so extensive, repeal of the existing 'Preservation of Trees' Ordinance and replacement with a new Ordinance is proposed. The comments received from the public were either incorporated into this new Ordinance and/or are addressed below. The majority of the comments that were received were incorporated into the draft replacement Ordinance.

The clarifications and suggestions offered subsequent to the April Planning Commission public hearing were discussed at the Planning Commission work session of June 20, 2002, wherein a few more concerns were voiced. Planning Commissioners suggested using a pro-active method of promoting and advertising the new Tree Preservation Ordinance to the public in multiple languages and venues.

Effects of Proposed Tree Preservation Ordinance on Single Family Properties

The current Ordinance governs trees on single family residential lots only when these properties can be further subdivided to create additional home sites. The proposed Tree Preservation Ordinance would also require that the removal or cutting of trees that were required as part of a tract or other conditions of approval of discretionary acts would require a Tree Removal and Cutting permit and the replacement of the removed tree. For example, if the approval of a tract requires that certain trees be planted along the street frontage or significant existing trees be saved, subsequent property owners would be obliged to maintain those trees and they would not be able to remove them without an approved Tree Removal and Cutting permit. If they were removed, they would be required to plant a replacement tree. Violators would be subject to penalty.

Several members of the community have expressed concern that the proposed revised Ordinance would not protect large, significant trees on small single-family properties. Other than trees required as a condition of approval, and as noted above, the proposed Ordinance does not address single-family parcels that have trees of significant size, such as mature oaks, black walnuts or other native trees. Therefore, no tree removal permits would be necessary for an individual single-family homeowner to fell such trees.

Staff agrees that preservation of significant trees that help to define or contribute significantly in a positive way to single-family neighborhoods is important and that protection of these trees is worthy of consideration by the decision makers. Nevertheless, the extent to which the City should impose its oversight on the landscaping of existing single-family home sites is a policy issue with valid arguments on both sides. If the Planning Commission believes that protection of significant trees on existing single-family parcels is an important element of maintaining neighborhoods, the Commission should recommend to City Council that that these trees also be protected under the proposed Ordinance.

Because some property owners prefer to trim their own trees, the City's Landscape Manager is initiating a program that will teach property owners how to properly trim trees. City staff will also provide handouts for single-family homeowners showing the best practices for tree trimming. Those who attend the classes could qualify to do major trimming or cutting on the Protected Trees in their own yards. As noted below, routine maintenance (no major pruning) is not regulated under the new Ordinance.

No Permits for Routine Maintenance

The proposed Ordinance now clarifies that routine maintenance of trees including the removal of dead or broken limbs, removal of watersprouts, crossed limbs or branches under 1 inch in diameter would not require a permit. However, this work must be done to International Society of Arborists (ISA) standards and does not include major trimming or cutting or the removal of large live limbs. Materials will be made available to show how maintenance is accomplished according to these standards.

Protected Trees

The proposed Ordinance defines the trees that would be "Protected." These are trees that are required by the zoning ordinance or other trees on commercial, industrial, or multi-family properties which are 8 inches or greater in diameter at 54 inches above grade. An 8" diameter tree is generally at least 10 to 15 years old and may in some cases be as much as 100 years old depending on the species of tree. Some slow-growing California native trees are also defined as protected at a smaller 4-inch size since they may already be 25 or 30 years old or even older. One suggestion from a member of the public was that all trees should reach a diameter of 8 inches to be protected. Because some trees are very slow growing, as noted, staff disagrees and the Ordinance was not changed to include this suggestion.

For all "Protected" trees, the removal of a large portion of the tree canopy, large live limb removal, and relocation or removal of Protected Trees, will require a permit. Removal of a Protected Tree will also require the replacement of the Protected Tree with one of similar size or value wherever possible or upsizing other trees being planted on the site. Conditions of Approval would be attached to the permits. These would include bonds from Developers for Tree Preservation where there are existing trees on the proposed development. This is currently a common Condition of Approval for the development of parcels that have existing mature trees and would continue to be emphasized.

One suggestion from the public was to eliminate the requirement for "like size, like kind" when a tree is removed. Staff does not believe it is acceptable for a 15-gallon tree to replace a mature tree that may have taken 50 to 100 years to reach its mature size. Although the new tree, with proper care, might someday reach a size to provide a similar amenity to the tree that was removed, it is unlikely to happen within a reasonable time frame. The intent of the Ordinance is to protect the values that existing mature trees provide. Where it is necessary to remove a tree, the lost amenities should be replaced as quickly and fully as possible. This is best done by replacement with multiple trees or trees of significant maturity and size.

Pruning

Some members of the public asked that licensed landscape contractors be able to prune, trim and cut trees without being a certified arborist and without a permit. However, trimming and cutting by landscape contractors who are not specifically trained in ISA tree care standards is one of the primary causes of inappropriate pruning, trimming, and cutting in Hayward. Most licensed tree care companies have certified arborists on staff to supervise workers that might not be certified, but not all landscape contractors are arborists or tree care specialists. Staff believes that a permit, and consequent City review of tree trimming work, should remain a requirement in the proposed Ordinance. In this way, the City can ensure that landscape contractors who do not have a certified arborist on staff to do major trimming or cutting of trees, such as branches over 1 inch in diameter or removal of large portions of the tree canopy, can receive input and direction from the City to the end that healthy, attractive trees will remain.

Language was added to allow the City to keep a list of certified arborists who agree to abide by International Society of Arboriculture (ISA) standards in cutting or pruning trees in the City. This list would be provided to anyone who requested information about who was qualified to cut or prune trees and to anyone who requested a Tree Removal or Cutting permit.

Other Issues

A requirement intended to protect nestling birds when pruning or removing trees was suggested by a member of the public; however, because this matter is already covered under Federal guidelines, this was not included in the proposed Ordinance.

The proposed Tree Preservation Ordinance requires that fences be installed 1 foot beyond the drip line of a protected tree during construction. A request was made to eliminate the proposed additional 1-foot beyond the dripline. Staff believes the 1 foot provides the necessary space for the contractor to place the fence without intruding into the 'Dripline' of the tree, and that the requirement for the fence to be non-movable should remain in the Ordinance to prevent fences from being relocated during construction. The requirement that the City Landscape Architect approve the removal of the fence is necessary to assure that the protective fence remains in place during the entire construction phase.

Penalties for Non-Compliance

The proposed Ordinance requires that when Protected trees are removed without permits, a fine equal to the value of the tree plus a replacement tree be imposed. It was suggested that this requirement is excessive and that the fine should either be eliminated or capped. Staff believes the proposed fine to be reasonable, and courts of law have upheld similar fines. A cap on the amount of the fine would make the most valuable trees less valuable and more likely to be subject to callous removal.

The proposed revised Ordinance allows the imposition of fines for violations of the ordinance and appeal of that fine to the Planning Director. A member of the community requested that individuals be able to appeal the imposed fines to the Planning Commission and City Council. As with other penalty procedures in the Municipal Code, fines assessed at the administrative level that remain unpaid become the subject of an annual lien hearing before the City Council, at which time any party believing the fine to be inappropriately levied may appeal to the City Council.

The proposed Tree Preservation Ordinance addresses as many of the concerns as possible raised by the public, tree removal professionals, and Planning Commissioners during previous meetings and the review process. Although in some cases there conflicting points of view, staff believes the proposed new Tree Preservation Ordinance would be in the best interest of the community. The most recent revisions to the Ordinance are in red.

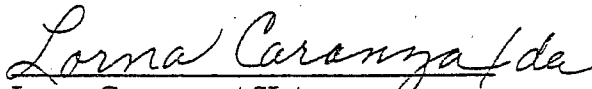
Environmental Review:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, it was determined that this project would not have a negative impact on the environment and a negative declaration has been prepared.

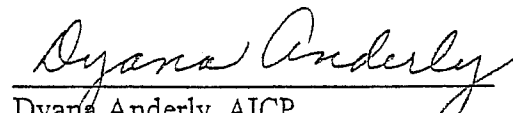
Public Notice:

Notice of this hearing was advertised in the Daily Review, sent to all recognized homeowners and neighborhood associations, former members of neighborhood task forces, the Chamber of Commerce, the local Board of Realtors, local developers, local landscape architects, arborists, landscape contractors, landscape maintenance companies, and Hayward Area Recreation Park District.

Prepared by:


Lorna Carranza, ASLA
Landscape Architect

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Findings of Approval of New Ordinance
- B. Draft Ordinance
- C. Planning Commission Report and Minutes of the April 11, 2002 meeting.
- D. Negative Declaration and Environmental Checklist



Maryann Jacquez, Hayward, spoke in favor of the ordinance. She suggested replacing trees and penalties when not complied with.

Scott Raty, Chamber of Commerce, urged this item to be continued for further information and comments from the public. He said he was in favor of trees, however, the City staff cannot keep up with removing the dying trees in the area. He commented that he had many questions about the Ordinance and noted that there are property rights questions.

Tom Evans, Hayward, discussed taking up the issue of cutting trees in greenbelts. He talked about protecting the heritage trees, like those on "B" Street and at the Library. He commented that many of the Oak trees in the Canyon are slow growing and still not at their potential. He would like to see many of the stands of trees protected so that if the property is developed, that the trees are left or worked out so that the developers plant trees somewhere else. He thought he would like to see the shoreline made better use of. He would like to see much of the hills land protected. He noted that taking trees down has a significant impact on the neighborhood. He said he would like to see more protection for trees.

Ron Barklow, Hayward, said he was bothered about the endangered species of birds that nest in the trees. He asked what is being done to inspect the trees before pruning.

Landscape Architect Carranza admitted there was nothing in the Ordinance in this regard but that consideration would be given to this concern.

Mr. Barklow continued to discuss under grounding utility lines. He said he did not agree with the "No impact" since many developers have ruined the breeding grounds of birds.

William Gardner, HARD, takes care of the trees in the Parks in Hayward. He commented that there are standards that should be followed. He noted that he is a consulting arborist. He said there is a need for this ordinance and he would like to work with the City on this. He said a more comprehensive plan was needed. The Hayward Parks supports any effort to protect the trees in this community.

Ron Pompalano showed photographs of the damage to trees in his neighborhood. He said 27 trees on a ridge off Campus Drive were cut down. He described many of them as Heritage trees. There were 10 Municipal Code violations. The neighbors were told there was no recourse through the City. He noted that this is a common occurrence in many cities.

Marlene Teel, Hayward, said she was delighted with the Tree Preservation Ordinance. She commented that anything the City could do to preserve the trees would be appreciated.

Ronald Carden said he was pleased with the Tree Preservation Ordinance. His company prunes thousands of trees a year. He noted that to come down to City Hall to receive a permit each time

would be onerous. He commented on the definition of "Certified Arborist," in the Code. He noted that rarely do they have people tell them, they want their trees mutilated. He said removing trees wholesale was something he would not support, and added that the pruning aspect is difficult to control. He asked who would be responsible for making sure it was done right.

Commissioner Sacks qualified the burden of having to obtain a permit for each property and asked what Mr. Carden would propose. He suggested perhaps developing a list of those who are qualified in the area and then would be eligible to do so with some streamlined or simplified permit process.

Commissioner Williams said homeowners would have to pay the extra money for a permit in addition to what it already costs to get the tree trimmed.

Chairperson Halliday suggested that the need to prune trees might be necessary for the health of the trees and this might be added into the Ordinance. Mr. Carden agreed that to prune is for structural development. He added that there are situations when the standards may not apply because of conflicts with structures or how a tree was previously trimmed.

Mimi Bauer, Fairway Park Neighborhood Association, commented that this does not pertain to the median. She commented on fines relative to not replacing trees that have been removed. Their neighborhood Association discussed root damage to the sewers and leakage, and voiced concern about broken sewage lines polluting the groundwater. She asked about the permit process for trees planted near a private swim club. She was told that a permit would be required but might be used for the full year, although Landscape Architect Carranza noted that the law, at this point, says it would be for only 60-days.

Gill Russell, suggested that hedges would be popular as a result of passing this Ordinance, since many people might not want to bother with planting or caring for trees. He said the trees add a lot to the life of the community. He pointed to the trees in European Cities and how much they add to the ambience of the community. He commented that a stricter Ordinance would greatly add to the City of Hayward.

The public hearing closed at 8:52 p.m.

Chairperson Halliday suggested the Commission not act at this meeting since there was so much information to assimilate.

Commissioner Bogue agreed and said he had quite a few questions. He asked whether the trees in planter strips are protected. He was told that trees planted as part of an original subdivision and were required as part of it, would be protected, if they are essentially six inches across. If removed, it would be required to be replaced.

Chairperson Halliday asked whether the street trees were required in all subdivisions. She was told that in some subdivisions they were required, but in most of the older subdivisions, they were not. Chairperson Halliday suggested that it might be productive to have more information in making a decision regarding the Ordinance, as well as the types of trees planted in older developments.



Commissioner Thnay said he would like to see this item continued. He said this is a great first step but would like to see it much more comprehensive. He suggested developing a manual to give to homeowners, or possibly having the City use this as a marketing tool by demonstrating what is right and what is wrong.

Commissioner Zermeno commented that he, too, agreed to continue the item since there are still too many gaps in the plan.

Commissioner Sacks **moved**, seconded by Commissioner Thnay, to continue the item. She added that two items to consider would be the length of permit, and that perhaps a list of approved companies might be developed.

Commissioner Williams urged more education for the residents on this issue. He then asked how staff will enforce this and whether more staff will be needed.

Commissioner Bogue said that, although it makes sense to have a preferred list, businesses need to be held liable rather than the homeowners.

Commissioner Caveglia commented that the list concept might sound good but there are big companies who butcher trees.

Chairperson Halliday commented that this Ordinance is saving property owners from unlicensed tree trimmers. She agreed with the list concept as a guide for homeowners, she liked the idea for the City producing information for residents.

Commissioner Williams said he was leery of the City having liability in putting out a list for homeowners.

Commissioner Bogue suggested a disclaimer be printed on the list of tree contractors so that homeowner's realize their responsibility in the end.

The motion passed **unanimously** to be brought back at a future date.

2. **Appeal of Planning Director Denial of Variance Application No. PL-2001-0478 – Dan and Yvette Martin (Applicants/Owners) - Request for Reduction of a Rear Yard From 10 feet to 7 feet and the Reduction of the Interior Side Yard From 10 feet to 6 feet 6 inches to Allow a Multi-Purpose Room and Bathroom Addition. The Property is Located at 31275 Hershey Way in a RS (Single-Family Residential) Zoning District**

Consulting Project Planner Weisbrod described the property and the neighborhood. He noted that the rear yard requirement is 20 feet, or reduced to 10 feet as long as the addition does not cover more than 20 percent of the required rear yard. He added that the applicant is proposing to reduce



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 04/11/02

Agenda Item 1

TO: PLANNING COMMISSION

FROM: Lorna Carranza, ASLA, Landscape Architect

SUBJECT: Text Change Application PL - 2002-0042 - Initiated by the Planning Director
- Request for an Amendment to Chapter 10, Article 15, of the Hayward
Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30.

RECOMMENDATION:

It is recommended that Planning Commission recommend that the City Council adopt the Negative Declaration and approve the amendments to the "Preservation of Trees" Ordinance subject to the attached findings.

DISCUSSION:

There have been numerous occasions when street trees, trees that were required to be planted as part of a commercial, industrial, or residential development were removed, decapitated, or pruned in such a way that the trees were effectively destroyed. Also, there have been instances of indiscriminate removal of trees on land where future development was anticipated. When trees are removed, damaged, and destroyed, it can have a profound effect on the visual perception of the City. This type of destruction is what the original "Preservation of Trees" Ordinance was established to prevent. However, it has become increasingly clear that the Ordinance needs further clarification, more specificity about which trees should be protected, establishment of a means for determining the value of trees to be protected, and a more effective methods of dealing with violations.

At a City Council work session in February 2000, staff was directed to revise the Preservation of Trees Ordinance and to add fines for damaging or destroying trees. The project was delayed until the recent hiring of a City Landscape Architect. The attached recommended Ordinance clarifies the City's preservation stance, adopts a method of determining value associated with protected trees that is consistent with fees imposed in other Bay Area cities, and establishes fines that will underscore the value of the trees that contribute to the value of our neighborhoods and the City's image. The proposed Ordinance amendments recognize the importance of preserving significant trees and at the same time acknowledge the development rights of property owners. Additions to the Ordinance are noted by highlighted text; deletions

are noted by strikeouts. The major issues of the proposed revised Ordinance are discussed below.

- The definition section (Section 10-15.11) is proposed to be augmented significantly in order to clarify the meaning of certain words as used in the context of the Ordinance.
- Other sections (10-15.12 through 14) were added to further define the kinds and sizes of trees to be protected according to accepted standards, to require the property owners to protect their trees and to define the City's liability.
- Section 10-15.20 incorporates new wording regarding determining the value of trees for establishing replacement costs.
- The process and information required on the permit for tree removal and tree trimming are outlined in Section 10-15.21.
- The amendments standardize the requirements and criteria for evaluating trees in conjunction with a tree removal application (Sections 10-15.22 and 23). For example, in cases involving removal of more than three trees, a certified arborist must provide information on the general health and form of the trees at issue.
- The current Ordinance addresses trees on properties of single-family homeowners only when their properties can be further subdivided to create additional home sites. This is unchanged from the present ordinance. However, the proposed amendments expand its authority over all single-family parcels in that trees required as part of a tract or other conditions of approval of discretionary acts would be protected. For example, if approval of a tract requires that certain trees be planted or significant trees be saved, subsequent property owners would be obliged to maintain the trees and to not remove them without an approved tree removal permit. Otherwise, the property owner would be subject to penalty. As proposed, this Ordinance does not address single-family parcels that have trees of significant size, such as mature oaks, black walnuts or other native trees. Therefore, no tree removal permits would be necessary for an individual single-family homeowner to fell a mature tree of significant size and worth unless installed as a requirement of the tract or otherwise required to be maintained as a condition of a development approval.
- The appeal process has been modified in cases where individuals seeking a tree removal permit or who are subject to fines for unauthorized tree removal disagree with the findings of the City's Landscape Architect. The appeal process mirrors that for other discretionary permits, i.e., to the Planning Commission and, upon further appeal, to the City Council.

- Sections 10-15.26 through 29 outline penalties, collections, injunctive relief, and liens. The value of the trees will be determined by standards set by the International Society of Arboriculture. These are the same standards used by other local municipalities. Violations of this Ordinance will also be a misdemeanor, which can be criminally prosecuted. The revised Ordinance allows the City to lien properties if necessary to achieve compliance with the Ordinance. These penalties are intended to discourage individuals from felling trees in order to make room for future development or to dissuade individuals from disregarding the importance of a significant tree to their street, their neighborhood, and their community.

CONCLUSION:

Adoption of this Ordinance would apply Citywide and create a performance standard applicable to all City properties, except for the single-family parcels mentioned above. Exceptions have also been provided for emergency conditions. Street trees within the public right-of-way would continue to be maintained under the current "Street Tree Ordinance."

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA) Guidelines, it was determined that this project would not have a negative impact on the environment and a negative declaration has been prepared.

PUBLIC NOTICE:

Notice of this hearing was advertised in the Daily Review, sent to all recognized homeowners and neighborhood associations, former members of neighborhood task forces, the Chamber of Commerce, the local Board of Realtors, local developers, local landscape architects, arborists, landscape contractors, landscape maintenance companies, and Hayward Area Recreation District. The City has received several phone calls from the public and the Chamber of Commerce regarding this issue. About half supported additional restrictions on tree removal and trimming and half objected to the proposed amended ordinance in that they believe it limits property rights. The Chamber of Commerce expressed support for the concept of revising the Ordinance. A letter received from Mr. John Kyle, is attached wherein he objects to portions of the Tree Preservation Ordinance.

Prepared by:

Lorna Carranza
Lorna Carranza, ASLA
Landscape Architect

Recommended by:

Dyana Anderly
Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Findings of Approval of Amendment
- B. Draft Ordinance
- C. Negative Declaration and Environmental Checklist
- D. Letter from Mr. John Kyle

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CITY OF HAYWARD NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text Change Application No. 00-140-01 -- Initiated By The Planning Director -- An Ordinance Amending The Municipal Code, Chapter 7 Relating To Tree Preservation. The proposed text changes include but are not limited to the following: Establishment of fines for unauthorized tree removal and criteria for mitigation of trees removed.

The Tree Preservation Ordinance is enforced Citywide.

FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

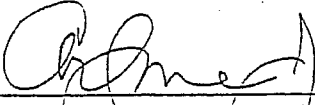
The proposed project will have no significant effect on the environment.

II. FINDINGS SUPPORTING DECLARATION:

- A. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared with a determination that the project will not have a significant impact on the environment since the amendments to the Tree Preservation Ordinance will require the implementation of additional regulations, procedures and fees which are designed to preserve trees located on private property citywide.
- B. The implementation of the proposed amendment to the Tree Preservation Ordinance is designed to further preserve aesthetics by enhancing scenic resources and preserving visual character and quality citywide.
- C. The implementation of the proposed amendment to the Tree Preservation Ordinance is that it will not have an adverse effect on agricultural land.
- D. The implementation of the proposed amendments to the Tree Preservation Ordinance will not result in significant impacts related to changes into air quality and biological resources such as wildlife and wetlands.

- E. The implementation of the proposed amendment to the Tree Preservation Ordinance will not adversely affect cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
- F. The implementation of the proposed amendment to the Tree Preservation Ordinance will not expose people to seismic ground shaking or ground failure. The Ordinance is designed to minimize risks of landslides by preserving trees while minimizing erosion of the top soil.
- G. The implementation of the proposed amendment to the Tree Preservation Ordinance will not lead to the exposure of people to hazardous materials or hazards associated with airports. It will not impair or interfere with adopted emergency response or evacuation plans.
- H. The implementation of the proposed amendment to the Tree Preservation Ordinance will not have an adverse effect on water resources or quality.
- I. The implementation of the proposed amendment to the Tree Preservation Ordinance will not lead to the physical division of communities nor is it in conflict with the adopted land use plan or policies. In addition the amendment is not in conflict with habitat and conservation plans.
- J. The implementation of the proposed amendment to the Tree Preservation Ordinance will not affect mineral resources.
- K. The implementation of the proposed amendment to the Tree Preservation Ordinance will not result in the generation of noise or the exposure of people to noise.
- L. The implementation of the proposed amendment to the Tree Preservation Ordinance will not affect population growth or the availability of housing and will not impact public services.
- M. The implementation of the proposed amendment to the Tree Preservation Ordinance will not result in an increase of the use or recreational facilities.
- N. The implementation of the proposed amendment to the Tree Preservation Ordinance will not cause an increase of traffic nor result in changes to traffic patterns or emergency vehicle access.
- O. The implementation of the proposed amendment to the Tree Preservation Ordinance will not require additional utilities of service systems.

III. *PERSON WHO PREPARED INITIAL STUDY:*

 *ASSOCIATE PLANNER*
Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect
Dated: June 1, 2000

IV. *COPY OF INITIAL STUDY IS ATTACHED*

For additional information, please contact the City of Hayward, Development Review Services Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4210 or (510) 583-4207, or e-mail cathyw@ci.hayward.ca.us.

DISTRIBUTION/POSTING

Provide copies to all organizations and individuals requesting it in writing.

Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.

Project file.

Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



Environmental Checklist Form

1. Project title: Text Change Application No. 00-140-01- Tree Preservation Ordinance
2. Lead agency name and address: City Of Hayward, 777 B Street, Hayward, CA..94541-5007
3. Contact person and phone number: Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect – (510) 583-4210
4. Project location: Citywide
5. Project sponsor's name and address: City Of Hayward, 777 B Street, Hayward, CA 94541-5007
6. General plan designation: All general plan designations
7. Zoning: All zoning districts
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)- Initiated By The Planning Director - An Ordinance Amending Various Sections Of The Municipal Code, Chapter 7 Relating To Tree Preservation. The proposed text changes include but are not limited to the following: establishment of fines for unauthorized tree removal and criteria for mitigation of trees removed.
9. Surrounding land uses and setting: Briefly describe the project's surroundings: Citywide
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

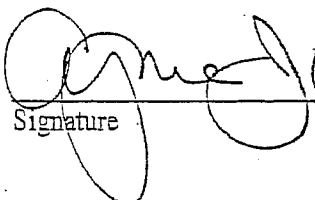
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

 Camille ASSOCIATE
Signature PLANNER

6/1/00
Date

For Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect
Printed Name

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project				
a) Have a substantial adverse effect on a scenic vista? <i>The intent of the Tree Preservation Ordinance and the proposed amendment is to protect scenic beauty of the City. Therefore, the amendment to the Tree Preservation Ordinance will not adversely affect scenic vistas.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? <i>See Ia</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? <i>See Ia</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? <i>See Ia</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed. The amendments will not lead to the conversion of farmland to non-agricultural uses.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? <i>The amendment to the Tree Preservation Ordinance will not negatively affect any agricultural land uses.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? <i>See IIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
<p>III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees, and will not adversely affect air quality.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <i>See IIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? <i>See IIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations? <i>See IIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people? <i>See IIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect biological resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect cultural resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect geology or soils.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides? <i>The intent of the Tree Preservation Ordinance and proposed amendment is to minimize risks of landslides by preserving trees, mitigating the removal of trees and requiring the replacement of trees that have been removed.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil? <i>The intent of the Tree Preservation Ordinance and proposed amendment is to minimize risks of soil erosion or loss of topsoil by preserving trees, mitigating the removal of trees and requiring the replacement of trees that have been removed.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. HAZARDS AND HAZARDOUS MATERIALS ☐ Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not create hazards to public safety or the environment through the transport, use, release, or disposal of hazardous materials.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? <i>The amendment to the Tree Preservation Ordinance will not result in safety hazards for people working or residing within the City.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? <i>The amendment to the Tree Preservation Ordinance will not result in safety hazards for people working or residing within the City.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? <i>The amendment to the Tree Preservation Ordinance will not interfere with adopted emergency response or evacuation plans.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? <i>The amendment to the Tree Preservation Ordinance will not expose people to risks resulting from wildland fires.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed and to preserve trees through the implementation of sound pruning methods. The amendments will not adversely affect hydrology or water quality.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? <i>See VIIIA.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <i>See VIIIA.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <i>See VIIIA.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <i>See VIIIA.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <i>See VIIIA.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed. The implementation will not physically divide an established community.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? <i>The amendment to the Tree Preservation Ordinance is designed to protect trees, replace damaged or missing trees and to preserve trees through the implementation of sound pruning methods. The text changes will not conflict with any land use plan, policy or regulations.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? <i>The amendment to the Tree Preservation Ordinance will not conflict with habitat conservation plans or natural community conservation plans.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

X. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? <i>The amendment to the Tree Preservation Ordinance will not result in the loss of the availability of any known mineral resource.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? <i>See Xa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE -- Would the project result in:				<input checked="" type="checkbox"/>
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? <i>The amendment to the Tree Preservation Ordinance will not expose persons to or result in the generation of any noise levels.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive ground-borne vibration or groundborne noise levels? <i>The amendment to the Tree Preservation Ordinance will not result in the exposure of persons to noise or generation of excessive ground-borne vibration or ground-borne noise levels.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? <i>See XIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? <i>See XIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? <i>See XIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? <i>See XIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed and implement sound pruning methods. The implementation of the text changes will not adversely affect population or housing.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <i>See XIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? <i>See XIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services. *The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed and to implement sound pruning methods. The implementation of the text changes will not adversely affect public services.*

☒

Fire protection? *See XIIIa.*

☐
☐
☐
☒

Police protection? *See XIIIa.*

☐
☐
☐
☒

Schools? *See XIIIa.*

☐
☐
☐
☒

Parks? *See XIIIa.*

☐
☐
☐
☒

Other public facilities? *See XIIIa.*

☐
☐
☐
☒

XIV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? *The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed, and to preserve trees by introducing sound tree pruning procedures.*

☐
☐
☐
☒

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? *See XIVa.*

☐
☐
☐
☒

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XV. TRANSPORTATION/TRAFFIC -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? <i>The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed, and to preserve trees by introducing sound tree pruning procedures. Transportation, transportation facilities, traffic, emergency access and parking will not adversely affected by the implementation of the text changes..</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Result in inadequate parking capacity? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <i>The implementation of text changes to the Tree Preservation Ordinance will not adversely affect utilities and service systems.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>See XVIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>See XVIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

1. **Text Change No. 2002-0042 – Initiated by the Planning Director –** Repeal and replace Chapter 10, Article 15 of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30

Landscape Architect Carranza brought back the tree Ordinance. She discussed the changes based on several hearings. She indicated that permits would be required to remove trees from vacant lots but routine maintenance would not require a permit, although heavy pruning would still need a permit. She noted that a list of certified arborists would be developed who would receive streamlining of the permit process.

Commissioner Sacks asked why the list of certified arborists and streamlining was not in the text of the Ordinance.

Landscape Architect Carranza commented that the proposal is to agree to put a process in place. A person who is on the list would not need to get inspections as long as they agree to trim trees to ISA standards, and there are no complaints about their work.

Commissioner Zermeño discussed encouraging the literature being made available in Spanish.

Landscape Architect Carranza responded that the information would be made available in Spanish and several other languages.

Commissioner McKillop stated that she would feel much better if the Ordinance did address how and where an application could be made for a yearlong permit. She said she would feel better with the language in the Ordinance.

Landscape Architect Carranza said the language for yearlong permit is already in there but for a particular site. It would be available for one project.

Chairperson Halliday asked about the International Society of Arboriculture, the stability and the validity, since they are included in the Ordinance.

Landscape Architect Carranza described the organization as older and larger than the American Society. They have been around since about 1972. They are well known and a worldwide resource on proper procedures. More information is available on their web site.

The public hearing was opened at 7:45 p.m.

Bill Gardner, a certified Arborist from the International Society of Arboriculture. He said the ISA was formed in 1921. They have certified since 1971. He described the book, which lists all the pruning standards. He said he works for HARD. He applauded the City for doing something. He commented that he was called to look at the tree damage on Oakes Drive. He agreed that there should be some enforcement procedures. HARD tries to protect the historical trees. He indicated that they support this proposal and think it is a good idea.

Scott Raty, representing the Chamber of Commerce, he thanked everyone the opportunity to go over the Ordinance, and for the previous continuance of the item. He indicated that there is still a

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long way to go. He agreed that in a drastic case, there should be punishment but the vast majority are not who this applies to. He asked for a clarification of a qualified person obtaining a blanket permit. However, the Ordinance is still asking for permits. He thought routine maintenance should be excluded from the permits, and thought homeowners might put off calling in the certified arborist if there was the additional cost of the permit. He asked to broaden the law to include that routine maintenance done by a qualified individual doesn't require a permit. He commented on the number of permits necessary for someone who does this as a living. If an individual could register with the City and let them do the right thing. He asked for further discussion including those people in the business.

Landscape Architect Carranza responded that each individual business would need a separate permit, only for large pruning. She commented that the limit of one-inch pruning could be changed. She noted that what they were hoping to do was when a person who quoted \$700 and was not certified, they would be given the information on how to prune, and inspected before and after. She noted that the City of Hayward could set up a system for the funding and permit, as well as figure out ways to deal with people who are certified.

The public hearing was closed at 7:56 p.m.

Commissioner Zermeno asked about Mr. Raty's presentation of doing a thousand jobs in Hayward, and needing a thousand permits.

Landscape Architect Carranza said it would depend on whether the trees are on separate sites. That is not usually the case. On commercial and industrial sites, there would be several sites maintained by one person under one permit. For the individual homeowner, permits would be needed only for those protected trees and required by the development. A certified arborist will catch on quickly as to which need a permit and which do not.

Commissioner Zermeno then mentioned the letter from the University Court Neighborhood Association. He asked whether the list were incorporated into the Ordinance.

Landscape Architect Carranza explained that some of the issues were for HARD or street tree issues. This is for commercial and industrial and for required trees on subdivisions. Some issues were already covered under the ordinance. Large trees on single-family homes are still not protected, so that is still a concern.

Commissioner Sacks noted that there had been a comment saying the permitting process was onerous. Since the permits pay for the program, logically the City would not want to eliminate the permitting process completely. She suggested that certain jobs would not require a permit. Those requiring a permit could be dealt with expeditiously. The applicant could be on the list, as a certified arborist.

Landscape Architect Carranza commented that somebody who was not a certified arborist she

would want to check their work. Many single-family homes would not have protected trees and require a permit.

Commissioner Halliday commented that at the original meeting the idea of having certified arborists, do pruning work without a permit. She confirmed that there would not even need to be a site visit. She then said it was great work on the Ordinance and confirmed that it is needed to protect trees. She said she hated to propose an onerous permit process on pruning. She said she supported the process for tree removal but was having a little conflict. She said she did not want to over do it. She could envision the complaints and hearings process. Do need to require permit from a certified arborist for pruning. She added that she would hope this would not too much of a burden. She then asked how residents are going to know if they have protected trees.

Landscape Architect Carranza responded that under this ordinance there would be disclosure at sale of a property.

Commissioner Halliday referred to the letter from the University homeowners. She commented that they might have been misled that this does not protect trees on private property. She noted that it does, perhaps not those trees on private property, but those large enough for subdivisions.

Landscape Architect Carranza responded that it does and it does not. The way it is written now, are trees that the City of Hayward specifically requires. Those trees noted in the conditions of approval and subdivision agreements. Those trees are protected. Also if during the development there were specimen trees found on a site, these would be protected. However, in the case of someone who lived in a home with a huge tree in the backyard, that tree would not be protected.

Planning Manager Anderly added a further clarification for the University Court people that this Ordinance presently would address mature protected trees on vacant single-family lots. She noted that there is a requirement now for tree removal permits for those types of lots. The problem is, it has no teeth. There was a requirement for a permit for the removal of the trees on University Court. They did not do it. There was no recourse for this. This creates an incentive for them not to do it.

Commissioner Thnay quoted from the Proposed Ordinance that, Routine maintenance of protected trees does not require a permit. He asked whether this was allowed.

Landscape Architect Carranza spoke to the ordinance as to what routine maintenance means. Normal pruning does not require a permit. Only severe pruning or cutting requires a permit.

Commissioner Thnay commented that he was concerned about enforcement and concerned about the balance of enforcement and education. He said it was necessary to eradicate ignorance. Perhaps Saturday classes for homeowners and tree companies might be held, as well as, giving out free trees. He stressed again that education is very, very important.

Commissioner McKillop discussed the substantial number of permits. She said she would prefer to see a facilitated process for certain individuals. She commented that she would hate to see the landscaping industry hamstrung by the permitting process.



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Chairperson Bogue discussed two sites, which were used as examples of severely cropped trees. He wondered what would happen to those trees, under this Ordinance.

Landscape Architect Carranza commented that sooner or later the trees would have to be removed. As to this particular site, a new business is coming in and they will be planting six new trees. Those trees will be replaced, slowly and surely, over time. New trees would come in slowly. She added that staff does not want this Ordinance to become onerous. However, it is important to have a beautiful Hayward. She commented that there would be an effort to remove and replace badly damaged tree first. She agreed that education is very important. She said there already is a program in the schools, with the City Arborist for free trees. Education is very important. If we let the businesses and homeowner's in Hayward know what is expected and what the City is looking for, it will not take long before people know what we want to see in Hayward,

Chairperson Bogue questioned if, over time they would need to be replaced, or could this require never having them pruned so they would come back.

Landscape Architect Carranza said she would have to go to that site and work with the arborist to discover which need to be removed and replaced. Many times, you can trim or train a tree, however, too often they are damaged beyond repair. She explained that she would end up doing more work on those sites but the City will get what they want.

Commissioner Halliday discussed the proposed Ordinance, which says the inspection fees would be in the Master Fee Schedule. She asked for further information on the fees.

Landscape Architect Carranza said the existing permit fee is \$66 and is for all trees on the site. She said they had not looked at separate permit for pruning because the cost was so low and would be included with any needed removals.

Commissioner Sacks moved the item, seconded by Commissioner Zermeño.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS	Halliday,	Thnay,	Sacks,
		Zermeño		
	CHAIRPERSON	Bogue		
NOES:	COMMISSIONER	McKillip		
ABSENT:	Caveglia			
ABSTAIN:	None			

- 2. Site Plan Review Application No. 2002-0159 – Standard Pacific Homes (Applicant); Acacia Credit Fund 7, LLC (Owner): Request for Approval of the Design of 109 Single-Family Dwellings to Be Located at 28905 Hesperian Boulevard on Property Commonly Known as Oliver West in the RS (Single-Family Residential) Zoning District**

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
10/03/02

RESOLUTION APPROVING THE NEGATIVE
DECLARATION FOR THE TREE PRESERVATION
ORDINANCE AND CONFIRMING THAT IT HAS BEEN
COMPLETED IN COMPLIANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT

BE IT RESOLVED by the City Council of the City of Hayward that the
negative declaration for the Tree Preservation Ordinance has been prepared and is in
compliance with City and California Environmental Quality Act guidelines.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBER:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward